

January 15, 2014

To: Representative, Chair Kestell
Representative, Vice Chair Jagler
Members, Assembly Committee on Education

From: Lisa Pugh, Public Policy Coordinator

Re: AB 618 – Disclosure of Student Data and Student Records

Thank you for the opportunity to comment on this bill and share insights for its implications on students with disabilities and their parents.

There are several sections of this bill that raise questions for our organization. First, Section 13. 118.125 (2) (d) 1. would exclude “a contractor, consultant, volunteer, or any other person to whom the school board has outsourced school services or functions” from the list of “school district officials” who are able to access a pupil’s records. As the Senate Education Committee discussed SB 271 – a bill that would expand contracted special education services eligible for state special education aid to include substitute teachers and paraprofessionals - we learned that contracting out for the supports a child with a disability requires is becoming a more common practice in both rural and urban districts statewide.

For a student with a disability there are a variety of individuals who have “legitimate educational interests, including safety interests” for the child. These individuals are often contracted occupational, speech, physical therapists, special education teachers or aides or substitute staff. Many of the serious situations our advocates see occur when a school official does not have enough information about a child. Specifically, special education aides who do not have access to a child’s behavioral plan or health records may unintentionally escalate a child into a dangerous situation or use an intervention that is inappropriate or harmful. For parents of children with complex health needs, it is essential that the substitute aide or teacher know how to support the child to eat or risk choking. While parent permissions and student privacy are important, a policy like this applied to children with disabilities, some who are non-verbal, must be very thoughtfully implemented. We urge further discussion with special educators and parents of children with disabilities about how this new exclusion of contracted special education employees would affect essential information sharing that keeps children safe.

In addition, we question the intent of the amendment to Section 11. 118.125 (2) (a) which allows certain records to be disclosed upon request to a pupil, parent or guardian, to the exclusion of a pupil’s behavioral records. For parents of children with behavioral needs, understanding the causes and concerns in the school environment are essential to supporting the child’s education and success. We question why this particular record is intentionally excluded from those available to parents for their use.

Finally, we share DPI’s concern that the bill prohibits the Department from collecting information that is not required to be submitted on the effective date of this bill and therefore could put Wisconsin out of compliance with federal Individuals with Disabilities Act (IDEA) reporting requirements about students with disabilities. This federal legislation is overdue for reauthorization and advocates and parents rely on the accountability and transparency that comes with data aligned with updated outcomes.

Thank you again for taking these concerns into consideration as you deliberate AB 618.

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